

Message Text

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INFO AMEMBASSY MOSCOW

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FOR US LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJECT:USSR NOTE VERBALE REGARDING US-USSR TENTATIVE
VESSEL-SOURCE POLLUTION AMENDMENTS AGREEMENT

REF :BERNHARDT-WETHERBEE TELCON 16 MAY 78

1. MINISTER COUNSELOR BESSMERTNYKH OF THE USSR EMBASSY,
WASHINGTON, ON 16 MAY HANDED THE SOVIET DESK A NOTE
VERBALE ON THE ABOVE SUBJECT, WITH THE FOLLOWING UNOFFICIAL
TRANSLATION THEREOF PREPARED BY THE SOVIET EMBASSY (OFFICIAL
TRANSLATION BY DEPARTMENT FOLLOWS SEPTTEL):

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BEGIN QUOTE: AS IS KNOWN, COMPROMISE PROVISIONS OF THE
COMPOSITE TEXT CONCERNING THE PREVENTION OF THE MARINE
ENVIRONMENT POLLUTION FROM VESSELS WERE AGREED UPON AT THE
SIXTH SESSION OF THE UN CONFERENCE ON THE LAW OF THE SEA
HELD IN GENEVA IN 1977. THE LANGUAGE OF THESE PROVISIONS
HAS BEEN THE RESULT OF MANY YEAR COMPLEX NEGOTIATIONS WITH
THE PARTICIPATION OF REPRESENTATIVES OF COUNTRIES WITH

DIRECTLY OPPOSITE INTERESTS, INCLUDING THOSE OF THE USSR AND THE US.

AT THE MEETINGS OF THE FIVE SEA POWERS IN NOVEMBER, 1977,

IN GENEVA AND IN LATE JANUARY, 1978, IN MOSCOW THE US DELEGATION CONFIRMED THAT IN GENERAL IT WAS SATISFIED WITH THE SAID PROVISIONS OF THE COMPOSITE TEXT AND DID NOT INTEND TO RAISE ANY QUESTIONS IN THIS REGARD IN THE COURSE OF THE SEVENTH SESSION OF THE CONFERENCE. NOTWITHSTANDING THAT, THE US DELEGATION PUT FORWARD AT THE SEVENTH CONFERENCE QUITE A NUMBER OF PROPOSALS TO AMEND THESE PROVISIONS WITH A VIEW TO EXPANDING THE RIGHTS OF A COASTAL STATE TO CONTROL POLLUTION OF SEA FROM VESSELS.

ALTHOUGH THE US PROPOSALS WERE AT VARIANCE WITH AGREEMENT REACHED ON THE QUESTION EARLIER THE SOVIET DELEGATION REGARDED THEM WITH MAXIMUM ATTENTION AND TRIED, IN THE SPIRIT OF COOPERATION, TO ACHIEVE MUTUAL UNDERSTANDING ON A LARGER PART OF THE US DELEGATION PROPOSALS. IN PARTICULAR, IT CAME TO MEET THE US REPRESENTATIVES ON THE FOLLOWING.

-TO SPECIFY THE COMPOSITE TEXT IN SUCH A WAY THAT IT WOULD BE IMPOSSIBLE TO QUESTION THE RIGHT OF STATES TO REGULATE THE CONTROL OF POLLUTION FROM VESSELS ENJOING THE RIGHT LIMITED OFFICIAL USE

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OF INNOCENT PASSAGE THROUGH THE TERRITORIAL SEA.

-TO ADD TO THE COMPOSITE TEXT PROVISIONS ON ESTABLISHING THROUGH IMCO VESSEL MOVEMENT SYSTEMS AIMED AT MINIMIZING MARITIME CASUALTIES AND ON THE NOTIFICATION OF A COASTAL STATE OF INCIDENTS INVOLVING SEA POLLUTION.

THE SOVIET DELEGATION ALSO REGARDED WITH UNDERSTANDING THE STATEMENT BY THE US DELEGATION THAT THE RIGHT OF A COASTAL STATE, PROVIDED FOR IN THE COMPOSITE TEXT, TO ARREST A FOREIGN VESSEL ONLY IN CASES OF "FLAGRANT OR GROSS" VIOLATIONS OF THE RULES FOR THE CONTROL OF POLLUTION WAS POLITICALLY UNACCEPTABLE TO THE US. THE SOVIET DELEGATION AGREED TO OMIT THE SAID DEFINITIONS AND TO SUBSTITUTE (SIC) THEM BY THE WORDS: "CLEAR OBJECTIVE EVIDENCE" OF A COMMITTED VIOLATION.

AT THE SAME TIME THE SOVIET DELEGATION POINTED OUT THAT IT COULD NOT ACCEPT THE US PROPOSAL TO EXCLUDE FROM THE COMPOSITE TEXT A PROVISION THAT ARRESTS OF FOREIGN VESSELS IN THE ECONOMIC ZONE ARE ALLOWED ONLY IF THEY HAVE CAUSED MAJOR DAMAGE OR CREATED A THREAT OF MAJOR DAMAGE TO A

COASTAL STATE AND THAT A FLAG STATE RESERVES FOR ITSELF THE PRIORITY WITH REGARD TO THE PROCEEDINGS AGAINST ITS SAILORS WHO COMMITTED SEA POLLUTION EXCEPT FOR THE CASES OF MAJOR DAMAGE TO A COASTAL STATE.

THE SOVIET UNION, AS IS KNOWN, IS AGAINST THE RECOGNITION

OF THE RIGHT OF COASTAL STATES TO STOP AND ARREST FOREIGN VESSELS IN 200-MILE ECONOMIC ZONES. A POSSIBILITY OF ACHIEVING A COMPROMISE ON THIS QUESTION AT THE CONFERENCE ON THE LAW OF THE SEA APPEARED ONLY WHEN AN UNDERSTANDING WAS REACHED THAT ARRESTS OF FOREIGN VESSELS WOULD TAKE PLACE ONLY IN CASES OF CAUSING "MAJOR DAMAGE" OR ITS THREAT. THE EXCLUSION OF THE WORDS "MAJOR LIMITED OFFICIAL USE

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DAMAGE" OR THEIR SUBSTITUTION BY A LESS DEFINITE EXPRESSION WOULD UNDERMINE THE VERY BASIS OF THE COMPROMISE.

AS REPORTED BY OUR DELEGATION, A MUTUAL UNDERSTANDING ON THE ABOVE-MENTIONED PROVISIONS OF THE COMPOSITE TEXT HAS BEEN ACHIEVED BETWEEN THE SOVIET AND THE US DELEGATIONS AND THE US DELEGATION IS PREPARED TO MAKE A STATEMENT TO THE EFFECT THAT AFTER THE INCLUSION OF THE AGREED CHANGES INTO THE COMPOSITE TEXT IT WOULD CONSIDER THE SECTION ON POLLUTION FROM VESSELS A FINAL COMPROMISE SUBJECT TO NO FURTHER CHANGES.

THUS, THE TASK NOW IS TO ENSURE BY JOINT EFFORT THAT THE SPECIFIED LANGUAGE OF THE COMPOSITE TEXT AGREED UPON BY OUR DELEGATIONS BE SUPPORTED AT THE CONFERENCE BY THE DELEGATIONS OF OTHER COUNTRIES. END QUOTE.

2. BEFORE PREPARING OFFICIAL RESPONSE TO USSR NOTE VERBALE, DEPT REQUESTS US LOS DEL TO FURNISH D/LOS WITH ANY VIEWS THEY MAY WISH TO SEE INCLUDED IN DEPT RESPONSE.

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